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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/185,878	11/03/1998	JEREMY R. LENT	NEXTP002	1164

7590 04/25/2002

VAN PELT AND YI, LLP
4906 EL CAMINO REAL
SUITE 205
LOS ALTOS, CA 94022

EXAMINER

HAYES, JOHN W

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 04/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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*John address
known after
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2161

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JS

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Office Action Summary	Application No. 09/185,878	Applicant(s) LENT ET AL.	
	Examiner John W Hayes	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,8 and 12-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,3,8 and 15-20 is/are allowed.
- 6) ☒ Claim(s) 12-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 04 September 2001 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>22,23</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 04 September 2001 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With regard to claims 12-14, a system is claimed for presenting a reason for the rejection of a credit application from an applicant, wherein the system comprises an underwriter operative to perform certain functions. Examiner notes that the only structure or element that makes up the system is "an underwriter" and since the structure or elements of the "underwriter" are not clearly defined, it is unclear to the examiner what specific elements of the system achieve the claimed result. The examiner is unclear as to whether the "underwriter" is a person, a computer or some process or program that is being implemented on a computer. For purposes of the prior art rejection below, examiner assumes that the "underwriter" is a computer.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2161

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al, WO 97/22073, published 19 June 1997.

Regarding **Claims 12-14**, Walker et al disclose a system for presenting a reason for the rejection of a credit application from an applicant comprising an underwriter in the form of a computerized system (Figure 1; Page 2 line 23-Page 3 line 9; Page 10, lines 1-6; Page 12; Page 21, lines 1-6; Page 24 line 22-Page 25 line 5). Examiner notes that the rest of the claim limitations are directed to functional language that does not further define the structure or elements of the system and is not given any patentable weight. Claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987). Thus, the structural limitations of claims 12-14, including an underwriter are disclosed in Walker et al as described above. Also, as described above, the functional limitations in claims 12-14 do not distinguish the claimed apparatus from the prior art.

Allowable Subject Matter

7. Claims 2-3, 8 and 15-20 are allowable over the prior art of record.

8. The following is a statement of reasons for the indication of allowable subject matter:

As per claims 2, 15 and 18, and especially in view of applicant's arguments filed 23 May 2001, the closest prior art of record (WO97/22073 to Walker et al or 5,940,811 to Norris) taken either individually or in combination with other prior art of record fails to teach or suggest performing attribute tests to determine whether the result corresponds to an appropriate rejection reason, and if so, assigning

Art Unit: 2161

the appropriate internal rejection code for the specific rejection reason. Claims 3 and 8 are dependent upon claim 2 and thus have all the limitations of claim 2 and are allowable for that reason. Claims 16-17 are dependent upon claim 15 and thus have all the limitations of claim 15 and are allowable for that reason. Claims 19-20 are dependent upon claim 18 and thus have all the limitations of claim 18 and are allowable for that reason.

Conclusion

9. The prior art previously made of record and not relied upon is considered pertinent to applicant's disclosure.

- Dykstra et al [5,611,052] discloses an apparatus and method for automatic credit evaluation and loan processing and teaches accessing a credit bureau for credit information pertaining to the applicant and applies a credit scoring model to determine the approval/rejection of the application.
- Jones et al discloses a method for the real-time automatic determination of the approval status of a potential borrower of a loan and teaches obtaining a credit worthiness score from a credit bureau and comparing this score to a table of score ranges obtained from the lender to determine the approval/rejection status of the applicant
- Tengal et al discloses deriving a proprietary credit score, typically a "FICO score", from a credit bureau to determine the credit score of a borrower.
- Canter, Ronal S. discloses that The Equal Credit Opportunity Act (ECOA) mandates that a prompt, meaningful disclosure of all reasons that a consumer credit application has been denied is provided to the consumer.
- "Low Rent Loan Officer In a Kiosk" by Bank Technology News discloses an automated loan machine that uses a bank's underwriting criteria and credit bureau data to accept or reject a loan application, and if the loan is rejected the system provides an explanation of the reasons for rejection.
- Calvey, Mark, "Internet Gives Bankers a Snappy Comeback" discloses a system launched by NextCard that provides an immediate response service to applicants who apply for a credit card via its web page wherein applicants can customize the card's features and process balance transfers online.

Art Unit: 2161

- American Banker, "Users of Credit Scoring Face Tough Rules on Notification" discloses Federal regulations concerning the requirement for lenders to provide specific reasons for the rejection of credit
- McShane, Peter K., "Got Financing" discloses that specific reasons for rejection of credit is important to the applicant in that it helps them focus their energy on what they need to do to improve their chances for approval in the future
- Borowsky, Mark, "The Neural Net: Predictor of Fraud or Victim of Hype?" discloses that HNC, Inc has a system that can give reasons for credit decisions
- Atkins discloses a system for managing financial accounts and teaches that if a mortgage application is rejected either by the loan department or the legal and regulatory compliance department, the approval is denied and a report is issued to the involved parties stating the reason for its denial.

Art Unit: 2161

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (703)306-5447. The examiner can normally be reached Monday through Friday from 6:00 to 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (703) 305-9768.

The Fax phone number for the **UNOFFICIAL FAX** for the organization where this application or proceeding is assigned is (703) 746-7240 (for informal or draft communications, please label "PROPOSED" or "DRAFT").

The Fax phone number for the **OFFICIAL FAX** for the organization where this application or proceeding is assigned is (703) 746-7239 (for formal communications intended for entry).

The Fax phone number for **AFTER-FINAL** communications where this application or proceeding is assigned in (703) 746-7238.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

John Hayes


Examiner

28 February 2002